

Message Text

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ACTION IO-14

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UNIDO

FODAG, NESCO, ICAO

E.O. 11652:N/A
TAGS: UN, AORG
SUBJECT: UN ADMINISTRATION: TAXATION OF LUMP SUM PENSIONS

REF: STATE 186263

1. FORMER UNIDO STAFF MEMBER, AMERICAN CITIZEN PETER STURGEON, HAS CALLED TO MISSION'S ATTENTION SERIOUS FINANCIAL HARDSHIP HE FACES AS RESULT OF SECRETARY GENERAL'S DECISION TO SUSPEND REIMBURSEMENT FROM TAX EQUALIZATION FUND (TEF) OF NATIONAL TAXES PAID ON ONE-THIRD LUMP SUM PENSION PAYMENTS. STURGEON RETIRED IN MAY 1978 AND ELECTED TO TAKE ONE-THIRD OF PENSION ENTITLEMENT IN CASH. HE WAS TOLD AT THE TIME THAT IT WAS UN PRACTICE TO PAY ANY U.S. TAXES ASSESSED ON THE LUMP-SUM PAYMENT OUT OF THE TAX
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EQUALIZATION FUND. RECEIPT OF LUMP-SUM PAYMENT HAS, OF COURSE, GREATLY INCREASED STURGEON'S INCOME FOR 1978 AND EX POST FACTO SUSPENSION OF TEF REIMBURSEMENTS MEANS THAT HE WILL BE PERSONALLY LIABLE FOR A VERY HEAVY TAX PAYMENT WHICH HE ESTIMATES WILL BE ROUGHLY EQUIVALENT TO ONE YEAR'S PENSION. HE HAS APPROACHED UNIDO SECRETARIAT FOR RELIEF, BUT SO FAR WITHOUT RESULT.

2. PERMREP HAS DISCUSSED CASE WITH ROCHE, HEAD OF FINANCIAL SERVICES SECTION AT UNIDO, WHO CONFIRMS FACTS OF THE SITUATION. ROCHE SYMPATHIZES WITH STURGEON, BUT SEES LITTLE TO BE DONE WHILE ISSUE OF WHETHER TEF CAN BE USED FOR SUCH REIMBURSEMENTS IS UNDER CONSIDERATION BY ADMINISTRATIVE TRIBUNAL IN NEW YORK. HE HAS QUERIED UN NEW YORK ABOUT WHEN TRIBUNAL'S RULING CAN BE EXPECTED AND ALSO WHETHER AT THIS STAGE STURGEON COULD REVERSE HIS DECISION TO TAKE A LUMP-SUM PAYMENT, BUT HE HAS NOT HAD ANY REPLY AS YET.

3. COMMENT: MISSION IS AWARE THAT SUSPENSION OF REIMBURSEMENTS ON LUMP-SUM PENSION PAYMENTS IS CONSISTENT WITH DEPARTMENT'S LEGAL OPINION ON PROPER USE OF TEF. WE SUGGEST, HOWEVER, THAT IF TRIBUNAL UPHOLDS THIS POSITION, DEPARTMENT CONSIDER SUPPORTING SOME MEASURE TO ALLEVIATE HARDSHIP CAUSED TO STURGEON (AND PERHAPS OTHER AMERICANS WHO RETIRED IN FIRST PART OF 1978) BY LATE CHANGE IN RULES THIS COULD BE DECISION TO APPLY OLD RULES TO SUCH A CASE OR, AS SUGGESTED BY ROCHE, TO GIVE RETIREE PERMISSION TO PAY BACK LUMP-SUM AND OPT FOR HIGHER PENSION. (QUERY: WOULD PAY-BACK EFFECTIVELY ELIMINATE TAX LIABILITY ON INCOME PREVIOUSLY RECEIVED?) WOULD APPRECIATE DEPART DEPARTMENT'S REACTION. LEARY

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